

Serial No.: 10/027,134  
Group Art Unit: 3739  
Examiner: A. Roano  
Atty. Docket No.: 102863-17

### AMENDMENTS TO THE CLAIMS

1. (Currently Amended) A surgical ablation instrument, comprising:  
a first member having a first tissue-contacting conductive element ~~with a substantially circular shape~~ extending along a length thereof, at least a portion of a cross-sectional shape of the first tissue-contacting conductive element being circular, the first tissue-contacting conductive element being in communication with a source of ablative energy; and  
a second member having a second tissue-contacting conductive element ~~with a substantially circular shape~~ extending along a length thereof, at least a portion of a cross-sectional shape of the second tissue-contacting conductive element being circular, the second tissue-contacting conductive element being in communication with a source of ablative energy, and the second member being pivotally coupled to the first member and including a distal, tissue-piercing tip adapted to be deployed into tissue to allow the first conductive element to be positioned on a first tissue surface and the second conductive element to be positioned on a second tissue surface opposed to the first tissue surface such that ablative energy can be transmitted between the first and second conductive elements.
2. (Original) The ablation instrument of claim 1, wherein the first and second members are movable between a first, open position and a second, closed position in which the first member is adjacent to the second member.
3. (Original) The ablation instrument of claim 2, further comprising an actuating member mated to the first and second members and effective to selectively move the members between the open and closed positions.
4. (Original) The ablation instrument of claim 3, wherein the first and second members are elongate and each member includes a proximal end mated to the actuating member, and a distal portion having the conductive element disposed thereon.
5. (Cancelled).

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6. (Original) The ablation instrument of claim 4, wherein the first conductive element comprises first and second electrodes extending along the length of the distal portion of the first member and adapted to be positioned adjacent a tissue surface, and the second conductive element comprises a single electrode extending along the length of the distal portion of the second member and adapted to be positioned adjacent an opposed tissue surface between the first and second electrodes of the first member.
7. (Original) The ablation instrument of claim 2, further comprising:  
a first conductor element extending from the first conductive element and adapted to communicate with the source of ablative energy; and  
a second conductor element extending from the second conductive element and adapted to communicate with the source of ablative energy.
8. (Original) The ablation instrument of claim 2, wherein one of the first and second conductive elements is an active energy transmitting electrode, and the other one of the first and second conductive elements is a return electrode.
9. (Original) The ablation instrument of claim 2, wherein at least one of the first and second members is malleable.
10. (Original) The ablation instrument of claim 2, further comprising an insulative coating disposed around a portion of at least one of the first and second members.
11. (Original) The ablation instrument of claim 3, wherein the actuating member comprises opposed first and second handles, wherein a force applied to bring the first and second handles in contact with each other causes opening of the first and second members.
12. (Original) The ablation instrument of claim 3, wherein the first and second members are biased to the closed position.
13. (Currently Amended) An ablation instrument, comprising:

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first and second members opposed to and pivotally movable relative to each other, each member having a tissue-contacting conductive surface ~~with a substantially circular shape~~ extending therealong, at least a portion of a cross-sectional shape of the first second tissue-contacting conductive elements being circular, and the second member including a distal tissue piercing tip that is adapted to be selectively deployed into tissue to allow the tissue-contacting conductive surface of each of the first and second members to be disposed on opposed sides of tissue; and

first and second conductor elements mated to the first and second members, at least one of the first and second conductor elements being effective to transmit ablative energy to the tissue-contacting conductive surface of at least one of the first and second members.

14. (Cancelled)

15. (Previously Presented) The ablation instrument of claim 13, wherein the instrument further includes an actuating member mated to the first and second members that is effective to move the members between an open position and a closed position.

16. (Previously Presented) The ablation instrument of claim 13, wherein the tissue-contacting conductive surface of the first member has a surface area greater than a surface area of the tissue-contacting conductive surface of the second member.

17-19. (Cancelled).